

NEW JERSEY STATE DEPARTMENT OF ENVIRONMENTAL PROTECTION  
NEW JERSEY ADMINISTRATIVE CODE

TITLE 7  
CHAPTER 27  
SUBCHAPTER 28

**HEAVY-DUTY DIESEL NEW ENGINE STANDARDS AND REQUIREMENTS  
PROGRAM**

**REGULATORY HISTORY**

Effective: November 21, 2005

Operative: December 24, 2005

See: 36 N.J.R. 5620(a), 37 N.J.R. 4429(a)

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## **SUBCHAPTER 28. HEAVY-DUTY DIESEL NEW ENGINE STANDARDS AND REQUIREMENTS PROGRAM**

### **7:27-28.1 Definitions**

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Business" means an occupation, profession or trade; a person or partnership or corporation engaged in commerce, manufacturing, or a service; or a profit-seeking enterprise or concern.

"California Air Resources Board" or "CARB" means the agency or its successor agency established and empowered to regulate sources of air pollution in the State of California, including motor vehicles, pursuant to section 39003, California Health & Safety Code, 1999, as amended or supplemented.

"Certification" means a finding by CARB or the USEPA that a motor vehicle, motor vehicle engine, or air contaminant emission control system has satisfied the criteria for the control of specified air contaminants from motor vehicles, adopted by CARB or the USEPA, respectively, as set out in their respective regulations at Title 13, California Code of Regulations, as amended or supplemented, and 40 CFR Part 86, as amended or supplemented.

"Department" means the New Jersey Department of Environmental Protection.

"Diesel engine" means a compression ignition type of internal combustion engine, without regard to fuel type.

"Engine family" means the basic classification unit comprised of the engine and drive-train configuration selected by a manufacturer and used for the purpose of certification testing.

"Established place of business" means a place actually occupied either continuously or at regular periods for business use.

"Gross vehicle weight rating" or "GVWR" means the value specified by the manufacturer as the maximum design loaded weight of a single vehicle.

"Heavy-duty diesel engine" means a diesel engine that is used to propel a heavy-duty diesel vehicle.

"Heavy-duty diesel vehicle" means a motor vehicle with a GVWR greater than 14,000 pounds that is equipped with a heavy-duty diesel engine.

"Lease" means any commercial transaction recognized under the laws of this State as a means of creating a right to use a good and includes renting. It also includes offering to rent or lease.

"Model year" or "MY" means the manufacturer's annual production period, which includes January 1 of a calendar year or, if the manufacturer has no annual production period, the calendar year. In the case of any vehicle manufactured in two or more stages, the time of manufacture shall be the date of completion of the chassis.

"Motor vehicle" or "vehicle" means every device in, upon, or by which a person or property is or may be transported otherwise than by muscular power, excepting such devices that run only upon rails or tracks and motorized bicycles.

"Motor vehicle engine" means an engine that is used to propel a motor vehicle.

"New complete HDDV" means a newly manufactured, ready-to-operate HDDV, equipped with an HDDE, offered for sale or lease by a manufacturer or dealer, the equitable or legal title to which has never been transferred to the ultimate purchaser.

"Person" means an individual, public or private corporation, company, partnership, firm, association, society or joint stock company, municipality, state, interstate body, the United States, or any Board, commission, employee, agent, officer or political subdivision of a state, an interstate body or the United States.

"Recall" means the issuing of notices directly to consumers that vehicles in their possession or control should be corrected, and/or efforts to actively locate and correct vehicles in the possession or control of consumers.

"Sale" or "sell" means the transfer of equitable or legal title to a motor vehicle or motor vehicle engine to the ultimate or subsequent purchaser.

"State" means the State of New Jersey, unless otherwise specified.

"Ultimate purchaser" means, with respect to any new motor vehicle or new motor vehicle engine, the first person who in good faith purchases a new motor vehicle or new motor vehicle engine for purposes other than resale.

### **7:27-28.2 Applicability**

- (a) Except as specifically provided herein, this subchapter applies to:
1. All new complete HDDVs sold or leased for use in this State that are equipped with a MY 2005 or later HDDE; and
  2. All MY 2005 and later HDDEs sold or leased for use in this State.

### **7:27-28.3 Requirements for engine and vehicle transactions**

(a) No person who is a resident of this State, or who operates an established place of business within this State, shall sell, lease, rent, import, deliver, purchase, acquire, receive or otherwise transfer in this State, or offer for sale, lease, or rental in this State (or attempt or assist in any of these actions) either a MY 2005 or later HDDE or a new complete HDDV equipped with a MY 2005 or later HDDE that is intended primarily for use or for registration in this State, unless the California Air Resources Board has issued an Executive Order certifying the engine as meeting all requirements of Title 13, section 1956.8 of the California Code of Regulations, as amended or supplemented, and the test procedures incorporated by reference therein that apply to the model year of the engine in question.

(b) For the purposes of this subchapter, it is conclusively presumed that the equitable or legal title to any motor vehicle with an odometer reading of 7,500 miles or more has been transferred to an ultimate purchaser, and that the equitable or legal title to any motor vehicle with an odometer reading of less than 7,500 miles has not been transferred to an ultimate purchaser.

### **7:27-28.4 Exemptions and technology review**

- (a) Notwithstanding the provisions of N.J.A.C. 7:27-28.3, the requirements set forth at N.J.A.C. 7:27- 28.3, 28.5 and 28.6 do not apply to:
1. A model year 2005 or 2006 heavy-duty diesel engine that is exempt from CARB's certification requirements pursuant to Section 86.1370-2007B.4 of the California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Diesel-Engines and Vehicles as either an engine manufactured by an ultra-small volume manufacturer or an engine installed in an urban bus;
  2. A model year 2007 or later heavy-duty diesel engine intended for use in an urban bus;
  3. A heavy-duty diesel engine of a model year and engine family for which CARB has determined, based upon its technology review, that compliance with its heavy-duty diesel engine standards is not required;
  4. A heavy-duty diesel vehicle that is owned and operated by a county, municipality, fire district, or duly incorporated non-profit organization for first aid, emergency, ambulance, rescue, or fire-fighting purposes; or

5. A heavy-duty diesel vehicle owned by the United States Department of Defense and/or the United States military services and used in combat, combat support, combat service support, tactical or relief operations, or training for such operations and any heavy-duty diesel engine used in such a vehicle, including:

- i. any heavy-duty diesel engine or heavy-duty diesel vehicle that is excluded from regulation under 40 CFR Part 85, subpart R, section 85.1703, and exempted from regulations under the Federal national security exemption, 40 CFR, subpart R, sections 85.1702(a)(2), 85.1704(b), 85.1708, and 85.1710, and
- ii. any commercially available vehicle, for which a Federal certificate of conformity has been issued under 40 CFR Part 86.

#### **7:27-28.5 Recordkeeping**

(a) In the event that the Federal certification requirements for MY 2007 and later HDDEs, promulgated by the USEPA on January 18, 2001 and codified at 40 CFR Part 86, are not in effect, the following shall apply:

1. Each manufacturer of any engine or vehicle subject to the requirements of this subchapter shall create and retain for a period of not less than five years from the date of manufacture records sufficient to determine whether the manufacturer is in compliance with each applicable requirement of this subchapter. For an engine, this includes, but is not limited to, the family designation, emission level to which each subject engine has been certified by engine identification number, the make and model year and horsepower rating. For a vehicle, this includes, but is not limited to, the make, model and model year and identification number of the vehicle in which the engine was installed by the manufacturer and, by vehicle identification number, the identity of the seller, the first purchaser and the State in which the vehicle was first registered;
2. Each person who sells or leases a vehicle subject to this subchapter shall provide a copy to the purchaser and retain for not less than three years from the date of sale or lease records sufficient to determine whether such seller or lessor is in compliance with the requirements of this subchapter. This includes, but is not limited to, the Certificate of Compliance for the engine installed in the vehicle, the Certificate of Origin of the vehicle and the vehicle registration for each applicable year.

(b) In the event that the USEPA subsequently promulgates Federal certification requirements for MY 2007 or any subsequent model year HDDEs at least as stringent as those the USEPA promulgated on January 18, 2001, the requirements for record keeping set forth in (a) above shall not be in effect for any such model year HDDE.

### **7:27-28.6 Annual Reporting**

(a) In the event that the Federal certification requirements for MY 2007 and later HDDEs, promulgated by the USEPA on January 18, 2001 and codified at 40 CFR Part 86 are not in effect at the start of MY 2007 or any subsequent model year, each manufacturer of any engine subject to the requirements of this subchapter shall submit to the Department, on or before July 1 of the year following the model year, a report demonstrating that such manufacturer has complied with all applicable requirements of this subchapter, including CARB's emission phase-in, averaging, banking and trading and early introduction incentives for the 12-month period running from April 1 of the model year to the following March 31. This report shall include all sales, leasing, registration and emissions certification data needed to verify an assertion of compliance. If the manufacturer is not in compliance, the report shall so state and shall include all information relevant to the noncompliance.

(b) In the event that the USEPA subsequently promulgates Federal certification requirements for MY 2007 or any subsequent model year HDDEs at least as stringent as those the USEPA promulgated on January 18, 2001, the requirements for annual reporting set forth in (a) above shall not be in effect for any such model year HDDE.

### **7:27-28.7 Prohibition against stockpiling**

No person shall purchase any HDDEs or HDDVs in excess of normal business needs for the purpose of evading the requirements of this subchapter.

### **7:27-28.8 Manufacturer compliance with California orders and voluntary recalls**

(a) Any order or enforcement action taken by the California Air Resources Board to correct noncompliance with any heavy-duty diesel engine requirements adopted by such Board applicable to MY 2005 and later HDDEs applies to all such engines and motor vehicles subject to this subchapter that are sold, leased, or rented, offered for sale, lease, or rental, or registered in New Jersey, except where the manufacturer demonstrates to the Department's satisfaction, within 21 days of issuance of such California Air Resources Board action, that this action is not applicable to such engines or vehicles in New Jersey.

(b) Any voluntary or influenced emission-related recall campaign initiated by any manufacturer pursuant to Title 13, sections 2113 through 2121 of the California Code of Regulations shall extend to all applicable engines and motor vehicles subject to this subchapter, sold, leased, or rented, offered for sale, lease, or rental, or registered in New Jersey, except where the manufacturer demonstrates to the Department's satisfaction, within 21 days of approval of the campaign by the California Air Resources Board, that this campaign is not applicable to such engines or vehicles in New Jersey.

### **7:27-28.9 Enforcement**

(a) The Department and its representatives have the right to enter and inspect any site, building, equipment, or vehicle, or any portion thereof, at any time, in order to ascertain compliance or non-compliance with the Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq., this subchapter, any exemption, or any order, consent order, agreement, or remedial action plan issued, approved or entered into pursuant thereto. Such right includes, but is not limited to, the right to test or sample any materials, motor vehicles or motor vehicle engines or any emissions therefrom, at the facility, to sketch or photograph any portion of the site, building, vehicles or motor vehicle engines, to copy or photograph any document or records necessary to determine such compliance or non-compliance, and to interview any employees or representatives of the owner, operator or registrant. Such right is absolute and is not conditioned upon any action by the Department, except the presentation of appropriate credentials as requested and compliance with appropriate standard safety procedures.

(b) Any person who fails to comply with any of the obligations or requirements of this subchapter will be subject to an enforcement action pursuant to the provisions of N.J.S.A. 26:2C-19.

### **7:27-28.10 Severability**

Each section of this subchapter is severable. In the event that any section, subsection or division is held invalid in a court of law, the remainder of this subchapter will continue in full force and effect.